

Bear Lake Comprehensive Management Plan

February 2009 Draft

Comments by Bear Lake Watch

March 23, 2009

Bear Lake Watch is very pleased to have been part of the CMP Planning Work Group and is committed to assisting with the implementation into the future. We commend the FFSL staff and the contractor, Bio-West, for their professional yet responsive manner with which they have completed this process.

The Draft Comprehensive Management Plan (CMP) for Bear Lake is an excellent framework for the management for Utah's sovereign lands at Bear Lake. The goals and objectives reflect the majority of the input received from the public meetings and from the Planning Work Group. As the objectives are implemented, results from studies compiled and experience working within the CMP is obtained, goals may evolve and new objectives will be needed. The CMP framework gives the public the needed mechanism to keep the CMP working to reflect public needs, concerns and desires. We thank the State of Utah for their desire to responsibly manage the sovereign lands of Bear Lake.

Commentary

Implementation

Implementation of the objectives will determine the CMP's effectiveness as a planning and management tool. As the saying goes, "The devil is in the details". The benefits of clearly spelling out how each objective will be implemented are numerous – less misunderstanding by all users of Bear Lake, unambiguous lines of responsibility and authority, better communication and coordination.

To that end, Bear Lake Watch applauds:

- **PUBLIC OUTREACH** - The numerous opportunities provided in Section 5, Implementation and Monitoring, such as annual meetings to review the overall implementation, platforms for making suggestions about beach use and rules. Additionally, engaging the numerous stakeholders will not only provide valuable input but also help insure ownership of the CMP. (please see comment on Public Involvement Process)
- **PARTNERSHIP BUILDING** - The formation of the Planning Implementation and Review Group (PIRG) as a crucial part of the overall implementation strategy. Members' commitment to participating in this group will help formulate well thought out implementation strategies, provide thorough examination of progress and compliance with the CMP and carefully evaluate potential shortfalls or problems encountered as the CMP is implemented.

- **COMMITMENT TO MONITOR** - The commitment to carefully and scientifically monitor the impact of recreational and other uses on Bear Lake. There should also be careful monitoring of the impacts caused by all leases whether they are for recreational use or other types of leases. These impacts fall into several categories – vegetation management, pollution and problems caused by ATVs/OHVs/vehicles, trash and sanitation, water quality along the beaches, etc. None of these areas have been examined in the past. These studies should be the basis for future changes or amendments to the CMP.
- **DETERMINING CAPACITY** As more and more people utilize Bear Lake for recreation or when the water level rises and there is less usable sovereign land, capacity restrictions will become a necessity for safety, sanitation as well as to protect the resource – regardless of classification.
- **CONTROLLING PESTS AND INVASIVES** The highest priority should be given to the development and implementation of this plan. The Pest Management Plan impacts Bear Lake and its property owners and recreation users in several very important ways.
 - Aquatic Nuisance Species (ANS) are a very present threat to endangering the entire future of both Bear Lake's ecosystem and its recreational use. Every effort should be made to educate the public and landowners about these threats, the possible impacts and to stop these threats to Bear Lake.
 - Invasive Species, especially Phragmites, are choking out native habitat and decreasing available recreational areas.
 - Mosquitoes and the deer fly/horse fly control are directly related to vegetation control on sovereign land. A policy that considers upland owners problems and desires to help control these pests is necessary.
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- **VEGETATION MANAGEMENT** Vegetation management should be based on scientific evidence specific to Bear Lake and to the large lake level fluctuations caused by irrigation demands. A clearly stated policy that addresses all stakeholder concerns about what can and cannot be done would be extremely beneficial towards resolving the long standing misunderstandings and possible violations. If the upland owners are provided the knowledge, education and BMP's they can be a great asset to the County and FFSL.

Comments and Recommendations by Bear Lake Watch on sections of the CMP

In all the discussions about the issues on the sovereign land at Bear Lake, there are three that dominate; Law Enforcement, OHV/ATVs and Funding. In the Final draft of the CMP these three issues are not addressed directly. Additionally, there are comments on three other issues.

- **Enforcement of beach use rules.** Enforcement is the number one concern. Adequately addressing this issue will resolve many of the others.
 - It is up to FFSL to facilitate law enforcement coverage for the sovereign lands.
 - It is paramount that both the public and adjacent landowners know and understand who has responsibility, what is enforceable, what is not and how to contact enforcement personnel.
 - It is essential for decision makers at every level to know if the MOU between FFSL and State Parks mentioned on Sect. 3.1.1 is in effect or not, and if not, what alternative plans for enforcement have been made. The status of this agreement should be well know public knowledge.
 - Funding to provide enforcement should come from day use fees (See comments on Objective C.2.5).

- **OHVs/ATVs/vehicles on the beach.** This is probably the number two management issue and if managed well could sharply reduce the pressure on law enforcement. Bear Lake may be the only place vehicles are allowed on the beach. You just don't see vehicles of any kind on shorelines along the oceans or other lakes. During periods when the water level is low resulting in great distances from the high water mark to the water's edge, it seems justifiable to allow the use of vehicles/ATVs/OHVs to access the water edge. This justification is also supported when this mode of transportation is used to get the elderly, handicapped and very young down to the water and patrolling the beach for enforcement or trash pickup.
 - The present rules – keeping vehicles parked 100 ft. from the water's edge and vehicle use for transportation to and from the water's edge (not parallel to the beach) will help prevent water quality problems and will improve safety along the shoreline. This should be a major theme of the Information Dissemination.
 - Use of private vehicles to launch boats or jet skis **may** be a source of pollution. Monitoring programs should be implemented to determine their impact. Enforcement officers should have authority to inspect and cite. Leaseholders should be responsible in their areas. Public or private launch areas should also be held responsible. A public education program should be developed.
 - There is a growing sentiment that the beach is no place for an ATV playground. Mixing those two recreational uses – unrestricted ATV use and traditional beach use, **may** not be compatible and **may** present safety concerns. In the Southwest Area, this is compounded by the thick stands of Phragmites which restrict visibility and the tendency to disregard the speed limit. A campaign aimed at the ATV users to remind them that this current privilege would be revoked if there is misuse or safety problems might help.

Bear Lake Watch recommends the following be added:

- **Objective C.1.7: Ensure that adequate law enforcement is provided commensurate with the level of beach use.**
- **Objective C.1.8: Develop a vehicle use plan, including parking, access and ATV/OHV use and limitations.**

- Objective C.2.5 Evaluate the need to implement a fee program . . . find the funding!**
Finding and maintaining adequate funding to provide for safe and enjoyable public use of sovereign lands plus general ecosystem protections should probably be elevated to 'Goal' status with an additional Objective of Explore additional partnerships and funding sources.
 A user fee program is just one of the options. Many industries, e.g. recreation, tourism, agriculture and power, benefit financially by using the lake. Partnerships should be explored where by these industries can contribute back to the resource.
 - The states collect taxes on the use of this resource. Does it return a proportional share to mitigate for the use?
 - The majority of the public comments support a user fee based program. The Garden City program in 2008 seems to have had positive results. The “need” for a fee program is obvious. Implementing just a program should be the objective.
- Objective B.1.2 Identify areas where additional sanitation facilities are needed. It is not sufficient to just identify the needs. The agency must see that they are provided if not by a lessee then by FFSL, which they have been doing, but it is not stated in the CMP.**
 - The real problem here is the location of the facilities relative to the recreational users. E.g. On busy weekends when there are thousands of cars on the beach and no lines at the restrooms up on the road. A solution to this will require collaborative, creative thinking and innovation involving the Health Dept., DEQ, Rich Co. trash removal and possible contractors for the porta potties contract. The solution needs to be something that is down on the beach where people will use the facilities yet still be serviceable.
 - Funding for these increased services should come from day use fees.
- Objective E.4.1 Remove the subsurface mineral estate from mineral extraction . . . Bear Lake Watch also loudly applauds this action. Bear Lake should not be exposed to any process, extraction or removal of mineral or material that has any potential to endanger the unique ecosystem of the lake. Bear Lake already provides enough multiple uses. Those that are already in place should be protected. We do have a few questions along this line:**
 - **What is covered under this withdrawal?**
 - **How strong is an administrative withdrawal against outside pressures?**
- Agriculture/Aquaculture** .There are currently no goals or objectives dealing with Industrial or Agricultural/Aquacultural leases. Aquaculture practices in particular have historically proven to be harmful to ecosystems. **These two types of leases should also be withdrawn from consideration. Any industrial leases should require a public hearing process as part of any lease proceeding.**

Public Involvement

The current staff of FFSL has made commendable efforts to include the public in creation of this plan. All discussions in the work group and public meetings indicate that is their intention to continue a very open and inclusive policy. This is demonstrated by the inclusion of several provisions in the goals and objectives such as:

(Section 4.2)

Goal Category A: Public Outreach and Partnerships

(Section 4.6.1)

Objective E.2.1: Assure an open and public process in the issuance of leases and general permits using the Resource Development Coordinating Committee to provide review, comment, and stipulation opportunities for proposed development

(Table 5-1)

c PIRG = Planning Implementation and Review Group

However, there appears to be some loop-holes that could bypass that intent. These seem to be created by gaps between provisions in the State Code, written for the state at large and the CMP for Bear Lake specifically. First of concern is in 2.4 *Amendments to the Comprehensive Management Plan*.

(Section 2.4.1)

#1 The Division may initiate amendments for Comprehensive Management Plans and Resource Plans at any time.

This use of term “initiate” indicates the start of a process, but it does not go on to describe that process only the process for changes requested by a person outside the Division. **This process and criteria should also be defined, if not in the plan itself then via suggested Objective A.2.4 (below)**

The final section of 2.4 makes reference to Utah Statute R652-90-1000, but only lists #1 –(a)(b)(c) of the rule.

R652-90-1000. Amendments to Management Plans.

1. The division shall follow the management direction, policies and land use proposals presented in comprehensive management plans. When unforeseen circumstances arise which may require a change in plans, the division shall adhere to the following procedure for amendments to comprehensive management plans:

- (a) notify affected lessees, beneficiaries, local and other affected government entities;*
- (b) submit the proposed amendment to the RDCC for review and comment; and*
- (c) conduct a public meeting in the affected area to provide an opportunity for comment, after giving two weeks' notice in a local newspaper. The division shall acknowledge all written comments.*

2. Resource plans may be amended by the division without public notice.

3. Site-specific plans may be amended by the director at any time following issuance provided that the amendment:

(a) does not materially affect any person's rights or obligations, and

(b) is consistent with existing policy or rule.

Item #2 & #3 refers to “Resource” “Site –specific “plans but are under the title of Management Plans.

Does it apply to the Bear Lake CMP? If it does, it would seem to completely override all the work, input and trust of the public process and the intent of the CMP.

As there is no opportunity at this late date to amend or further define the intent of this part of the Utah Statute, it should be further clarify that the Bear Lake CMP can only be amended by a defined public process similar to that by which it was created.

Secondly, it should **define how the Bear Lake CMP will use the RDCC to guarantee the public is notified and has opportunity for input in both issuances of leases and permits as well as Amendments to the Plan. At this point there is no trigger mechanism to do so.**

(Section 4.6.2)

Objective E.2.1: *Assure an open and public process in the issuance of leases and general permits using the Resource Development Coordinating Committee to provide review, comment, and stipulation opportunities for proposed development*

In the Planning and Approval process, a list was compiled by request for notification via the website, mailing and meeting attendance. Rather than assume that this is the list reference in 2.3, **it should be made clear that this list will be maintained and used for any substantial issue such as leases, permits, CMP amendments, rule changes and meetings.**

(Section 2.3) Adoption of the Comprehensive Management Plan

According to Utah Statute R652-90-600, comprehensive management plans may be approved as follows:

1. Comprehensive management plans shall be published in draft form and sent to persons on the mailing list established under R652-90-400, the Governor's Office of Planning and Budget, and other persons upon request.”

(CORRECTION: The reference for maintaining the list should read R652-90-500)

(Table 5-1)

There are several references to the (PIRG) Planning Implementation and Review Group, but this group is not defined. Through conversations in the Working Group it was

inferred that the group would continue on through the implementation of the plan.

Bear Lake Watch recommends adding the following objectives to *4.2.2 Goal A2: Cooperation and Coordination with Resource Agencies and Stakeholders Improved*

Objective A.2.3 Convert the Planning Work Group to the Planning Implementation and Review Group (PIRG) as a means of continuing communication and coordination with the public. This group will have ongoing responsibilities and tasks to work with the Division to implement the goals and objectives of the CMP.

Objective A.2.4 Review and revise FFSL procedures to ensure public notification and involvement in any substantial issues such as leases, permits, Plan amendments, rule changes and meetings for the management area at Bear Lake.

Objective A.2.5 Convert and maintain the mailing list for the Planning Process to one used for notification for general Bear Lake issues, procedures and communications.

Objective A.2.6 An annual management plan will be prepared and made public each spring describing the current management plan adapted for lake level, law enforcement MOU, leases etc.

Conclusion

The completion of the CMP is a greatly needed and much appreciated first step in providing quality recreation at Bear Lake. The framework that it establishes provides the mechanisms to manage that resource for sustainable yield and multiple use. The success and acceptance of the Plan is in the implementation of the objectives and will determine whether the plan is a useful tool or just collects dust on a shelf. Active management of this, often times, large resource will necessitate adequate funding to provide the facilities, monitoring and enforcement of rules. Whether the funding source is county, state, use fees or a combination of these, adequate funding is the key and the source should not be left in question from year to year. Since people take more ownership when have to pay for something, a minimal use fee seems appropriate and would help offset the costs incurred. Monitoring the impacts of recreational use is essential to determine if the level of use is sustainable. Water quality along the shoreline is another monitoring necessity. We realize that FFSL does not have Legislative status for changes to the State Code or Budget, but believe they should take the lead to define the needs and possible solutions for the sovereign land at Bear Lake. We also encourage FFSL to continue to work with the agencies in Idaho to coordinate and collaborate wherever possible. FFSL holds a key component to esthetic and economic viability of the Bear Lake Valley. Bear Lake Watch is grateful for their efforts and pledges continued support.